

1 Todd M. Touton
2 Nevada Bar No. 1744
3 Marla DaVee
4 Nevada Bar No. 11098
5 LIONEL SAWYER & COLLINS
6 1700 Bank of America Plaza
7 300 South Fourth Street
8 Las Vegas, Nevada 89101
9 (702) 383-8888 (Telephone)
10 (702) 383-8845 (Fax)

11 Mark A. Hannemann, *admitted pro hac vice*
12 Jeffrey S. Ginsberg, *admitted pro hac vice*
13 Richard M. Cowell, *admitted pro hac vice*
14 KENYON & KENYON LLP
15 One Broadway
16 New York, NY 10004
17 (212) 425-7200 (Telephone)

18 *Attorneys for Robert Bosch LLC*

19
20 **UNITED STATES DISTRICT COURT**
21 **DISTRICT OF NEVADA**

22 ROBERT BOSCH LLC,
23 Plaintiff,
24
25 v.
26 JIUJIANG YADA TRAFFIC EQUIPMENT
27 CO., LTD. d/b/a DECHANG YEDA
28 TRAFFIC EQUIPMENT CO. and d/b/a/
NINGBO YEDA AUTOMOBILE PARTS CO.
LTD; and WILLIAM CHENG
Defendants.

29 Case No. 2:11-cv-01762-PMP-RJJ

30
31 **DECLARATION OF RICHARD M.**
32 **COWELL**

1 I, Richard M. Cowell, declare as follows:

2 1. I am a member of the Bar of the State of New York and an attorney at Kenyon &
3 Kenyon LLP, attorneys of record for Plaintiff Robert Bosch LLC (“Bosch”) in this action. I
4 make this declaration in opposition to Defendants’ Motion For Summary Judgment. I have
5 personal knowledge of the matters stated herein and would be competent to testify to them if
6 called upon to do so.

7 2. Exhibit A is a true and correct reproduction of the packing label affixed to a
8 shipment of Yada-777 wiper blades sent to Peter Morse bearing shipment number 52400347.

9 3. Exhibit B is a true and correct copy of the shipping information corresponding to
10 shipment number 52400347.

11 4. Exhibit C is a true and correct copy of an email chain between Bosch counsel and
12 Defendants’ counsel requesting to hold a Rule 26(f) conference.

13 5. Bosch attempted to schedule the required Rule 26(f) discovery conference and is
14 still waiting for Defendants’ counsel to provide available dates to hold the conference. *See*
15 Exhibit C.

16 6. Pursuant to Fed. R. Civ. P. 26(d)(1), Bosch is not permitted to take discovery
17 before the parties hold their Rule 26(f) conference.

18 7. Bosch has thus been unable to obtain any discovery from Defendants, including
19 discovery regarding Defendants’ importation, use, sale or offer for sale in the United States of
20 the Yada-777 and Yada-189s wiper blades (“the Accused Products”).

21 8. Bosch seeks to discover facts relating to the dates and circumstances surrounding
22 Defendants’ importation of the Accused Products into the United States, including the shipments
23 to Peter Morse. Such facts would show at least that there is a genuine dispute as to material fact
24 regarding Defendants’ infringement via importation.

25 9. Bosch seeks to discover facts relating to Defendants’ activities at AAPEX in 2010
26 and 2011, specifically as to whether Defendants sold or offered to sell the Accused Products.
27 Such facts would show at least that there is a genuine dispute as to material fact regarding
28 Defendants’ infringement via sale and offer for sale.

10. Bosch seeks to discover facts relating to Defendants' contacts and communications with persons in the United States, specifically as to whether Defendants sold or offered to sell the Accused Products. Such facts would show at least that there is a genuine dispute as to material fact regarding Defendants' infringement via sale and offer for sale.

11. Bosch seeks to discover facts relating to Defendants' use of the Accused Products, and any use by purchasers and recipients of the Accused Products, in the United States, including but not limited to any testing done at the request of Defendants and any use on automobiles by any persons. Such facts would show at least that there is a genuine dispute as to material fact regarding Defendants' infringement via use and with respect to indirect infringement.

12. Such discovery is required to respond to Defendants' motion for summary judgment, which avers that no such activity has taken place.

13. A continuance will allow Bosch to serve discovery requests and depose witnesses regarding such activities, thereby allowing Bosch to fully respond to Defendants' motion.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 23rd day of January, 2012.

/s/ Richard M. Cowell
RICHARD M. COWELL

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of January, 2012, I caused to be served a true and correct copy of the foregoing **DECLARATION OF RICHARD M. COWELL** in the following manner:

(ELECTRONIC SERVICE) Pursuant to Fed. R. Civ. P. 5(b)(3) and LR 5-4, the above-referenced document was electronically filed and served upon the party listed below through the Court's Case Management and Electronic Case Filing (CM/ECF) system:

Michael Feder
Gordon Silver
3960 Howard Hughes Pkwy., 9th Floor
Las Vegas, NV 89169

Michael Slobasky
Philip O'Neill
Jiwen Chen
Jacobson Holman, PLLC
400 Seventh Street, N.W.
Washington, D.C. 20004

/s/ Richard M. Cowell